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MONTANA LEGISLATIVE HISTORY

Chapter 162 1985

Bill H 348 S _____ Original bill & history ____C

H. Committee on Labor & Employment Relations		S. Committee on Labor & Employment Relations	
Hearing Date(s) Jan 31	✓ C	Hearing Date(s) Mar 02	✓ C
_____	____C	_____	____C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out Feb 01	✓ C	Mar 04	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

3/13	2ND READING AMENDMENTS CONCURRED	91	0
3/14	3RD READING AMENDMENTS CONCURRED	98	0
3/21	SIGNED BY SPEAKER		
3/22	SIGNED BY PRESIDENT		
3/22	TRANSMITTED TO GOVERNOR		
3/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 333		
	EFFECTIVE DATE: 07/01/89 (1-12, 14)		
	EFFECTIVE DATE: 03/27/89 (S13, 15, 16)		

HB 348 INTRODUCED BY MARKS
GENERALLY REVISE LAWS RELATING TO OCCUPATIONAL DISEASE TO CLARIFY THE MEDICAL PANEL EXAMINATION AND HEARING PROCESSES
BY REQUEST OF WORKERS' COMPENSATION DIVISION

1/21	INTRODUCED		
1/23	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
1/31	HEARING		
2/01	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/03	2ND READING PASSED	100	0
2/06	3RD READING PASSED	93	1
	TRANSMITTED TO SENATE		
2/07	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/02	HEARING		
3/04	COMMITTEE REPORT--BILL CONCURRED		
3/06	2ND READING CONCURRED	50	0
3/08	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
3/14	SIGNED BY SPEAKER		
3/14	SIGNED BY PRESIDENT		
3/15	TRANSMITTED TO GOVERNOR		
3/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 162 EFFECTIVE DATE: 7/01/89		

HB 349 INTRODUCED BY STRIZICH, ET AL.
DESIGNATE SEIZING LAW ENFORCEMENT AGENCY AS ENTITY THAT HOLDS AND DISPOSES OF SEIZED PROPERTY THAT WAS USED TO VIOLATE DRUG LAWS

1/21	INTRODUCED		
1/23	REFERRED TO JUDICIARY		
2/09	HEARING		
2/09	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/11	2ND READING PASSED	90	3
2/14	3RD READING PASSED	97	0
	TRANSMITTED TO SENATE		
2/15	REFERRED TO JUDICIARY		
3/10	HEARING		
3/15	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/16	2ND READING CONCURRED	47	0
3/18	3RD READING CONCURRED	45	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/30	2ND READING AMENDMENTS CONCURRED	95	0
3/31	3RD READING AMENDMENTS CONCURRED	98	0

has to go, or where to send a particular claim because that insurer has not given us that information. This is a way to encourage them to give us that information so we can direct that paper flow that comes in.

Closing by Sponsor:

SMITH: I did get a copy of the fiscal note for $14,700. What it is for is the cost of computer programing and I will urge a yes vote on this bill.

RUSSELL: This concludes the hearing on HB 347.

- - - - - - - - -

HEARING ON HB 348

Presentation and Opening Statement by Sponsor:

REP. MARKS: This is a bill by the request of workers' comp division. I have handed to the committee members some proposed amendments that have been worked out by the respective parties. I presume that there is support for the bill as amended and I will speak to the bill as if it were amended. (Proposed amendments attached hereto as Exhibit #5).

This is a bill that clarifies the appointment of appeals panels to determine qualifications under the Occupational Disease Act. It clarifies how the panel of physicians is used when the insurer denies liability for an occupational disease. The division orders the examination to be made by the physician to determine if the disease exists and, if so, what percentage of it is attributed to the work place. In 1987 work comp amendments brought the definition of occupational disease to include new specialties not previously used. The old panels are no longer as appropriate as the new one that has been put together in this bill. It also clarifies how the panels are organized and includes some other housekeeping language to bring the panel process up to date.

One of the new sections that is not in the bill but is in the amendments is where it allows a statute to become retroactively effective so that those claims that have been filed previous to the enactment of this act will be able to have the panel operate just as if it had been in place before that.

Testifying Proponents and Who They Represent:

BILL PALMER, Interim Administrator of the Division of Workers' Compensation.

MICHAEL SHERWOOD, Montana Trial Lawyers Association.

DON JUDGE, Montana AFL-CIO.

NORM GROSFIELD, Attorney, Helena, Montana.

GEORGE WOOD, Executive Secretary of the Montana Self Insurers Association.

Proponent Testimony:

BILL PALMER, proponent. HB 348 brings the existing law int line with the expansion of the occupational disease definition that was amended in 1987. Additional specialties such as neurology and orthopedics are now required for panels. The method of selecting panels currently in the law has not been used for some time, and the proposed method is more in line with the current practices. We use the board of medical examiners to help us select physicians for impairment ratings and the same procedure now will apply to the occupational disease panels. Also, our panels are not single groups of physicians, but change depending on specific disease or the case in question.

Section 39-72-602 allows different people to be chairmen for each selected case. It seems to me that this particular language allows us to do more in line with what was set up in 1987 in the general format. W request your support for this bill. (Written testimon also submitted and attached hereto as Exhibit #6).

MICHAEL SHERWOOD, proponent. This represents, as I understand it, the final bill that we have discussed regarding workers' comp. It has been urged to be introduced by the division. I have not been provided with a copy of the amendments, but I am confident they are in line with what we have discussed. I urge you t support this bill as amended.

DON JUDGE, proponent. We do have a copy of those amendments and with them our concerns about the legislation have been taken care of. We urge your support.

NORM GROSFIELD, proponent. I am involved with the group that worked out the amendments and I support the amendments.

GEORGE WOOD, proponent. I support this legislation as amended. I request that you report a do pass.

Questions from Committee Members:

None.

Closing by Sponsor:

REP. MARKS: I want to point out one of the changes in the amendments that is of some significance. I think it expresses the compromise best. I draw your attention to section 4 mainly on page 4 and the additional language that appears in the white bill which would indicate they want to add medical benefits.

RUSSELL: This closes the hearing on HB 348.

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DISPOSITION OF HB 348

Motion: Rep. Pavlovich, moved that HB 348 DO PASS.

Discussion: None.

Amendments and Votes: Rep. Pavlovich, moved that the amendments to HB 348 DO PASS.

Recommendation and Vote: Vote taken and unanimous decision for DO PASS as amended.

- - - - - - - -

DISPOSITION OF HB 347

Motion: Rep. Kilpatrick, moved that HB 347 DO PASS.

Discussion:

DRISCOLL: The intent of the bill last session was not loss of wages. During the 18 months I sat on that committee to study workers' comp, it was never intended for a person to lose three weeks of wages before they got compensation. The intent was 48 hours. The way the bill was written last time and the interpretation of the division, a person working three 12-hour shifts a week loses a lot more than 48 hours of wages before they get any compensation and it is getting very common in this state for people to work four 10's and those people lose a lot more than 48 hours wages before they

12:55 pm.
2/01/89
fp

STANDING COMMITTEE REPORT

February 1, 1989

Mr. Speaker: We, the committee on Labor report that HOUSE BILL 348 (first reading copy -- white) do pass as amended .

Signed: _____
Angela Russell, Chairman

And, that such amendments read:

1. Title, line 7.
Following: ";"
Strike: "AND"

2. Title, line 9.
Following: "MCA"
Insert: "; AND PROVIDING AN EFFECTIVE DATE AND SOME RETROACTIVE APPLICATION"

3. Page 2, line 17.
Following: "(2)"
Insert: "The division shall select a panel physician to examine a claimant as required."
Following: "The"
Strike: "panel members"
Insert: "division"

4. Page 2, line 22.
Following: "and"
Strike: "panel"

5. Page 4, line 20.
Following: "compensation"
Strike: "and medical benefits"

6. Page 4, lines 22 and 23.
Following: "compensation"

12:33 pm
2/21/89
JP

Strike: "and medical benefits"

7. Page 5, line 13
Following: line 12
Insert: "NEW SECTION. Section 6. Effective date -- retroactive applicability. (1) [This act] is effective July 1, 1989.

(2) [This act] applies retroactively, within the meaning of 1-2-109, to all occupational disease claims pending before the division."

EXHIBIT #5
DATE 1-31-89
HB 348

Amendments to House Bill No. 348
First Reading Copy

For the Committee on House Labor and Employee Relations

Prepared by Eddye McClure
January 31, 1989

1. Page 2, line 17.
Following: "(2)"
Insert: "The division shall select a panel physician to examine a claimant as required."
Following: "The"
Strike: "panel members"
Insert: "division"

2. Page 2, line 22.
Following: "and"
Strike: "panel"

3. Page 4, line 20.
Following: "compensation"
Strike: "and medical benefits"

4. Page 4, lines 22 and 23.
Following: "compensation"
Strike: "and medical benefits"

5. Page 5, line 13
Following: line 12
Insert: "NEW SECTION. **Section 6. Effective date -- retroactive applicability.** (1) [This act] is effective July 1, 1989.
(2) [This act] applies retroactively, within the meaning of 1-2-109, to all occupational disease claims pending before the division."

DATE 1-31-89
HB 348

Department Testimony:

HOUSE BILL 348: Occupational Disease Panels

House Bill 348 brings the current law in line with modern requirements, particularly with the expansion of the definition of occupational disease in 1987.

Since conditions such as carpal tunnel were moved to the Occupational Disease Act, additional specialities, such as neurology and orthopedics, are now required for panels. The method of selecting panels currently in the law has not been used for some time and the proposed method is more in line with current practice.

We use the Board of Medical Examiners to help us select physicians for impairment ratings. The same procedure would apply to Occupational Disease Panels.

Also, our panels are not single groups of physicians, but change depending on the specific disease or case in question. The section 39-72-602 amendment allows a different chairman to be selected for each case.

The other significant section amended is 39-72-706 which clarifies if compensation benefits are reduced proportionate to the percentage of occupational disease, medical benefits are included in that reduction.

William R Palmer
Interim Administrator, DLRC

6019E

VISITORS' REGISTER

HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

BILL NO. 348a DATE January 31, 1989

SPONSOR MARKS

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Bob Palmer	DNC	✓	
Greenwood	MT Self Insurers Assn.	✓	
Lori Cooper	Stone Container	✓	
Mike Sherwood	MTLA	as amended	
Archie Lake	Intermountain		
Norm Grosfield	Attorney - Helena	✓ as amended	
Don Judge	MT STATE AFL-CIO	✓ as amended	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33

Currently, the mill is paying a bonus if workers can work faster. The process speeds up the machinery which will casue, which means there will be more accidents.

There were no further opponents.

Questions From Committee Members:

Senator Blaylock asked Mr. Anderson if he wants the mill to be made safer. Mr. Anderson stated, for starters that would help solve the problem... Senator Blaylock stated it is the old language the Workers' Compensation is using. On page 3, line twenty-two, under rehabilitation,The language states there is no retraining fund. I was a good worker, there is no place to turn.

Senator Aklestad asked about the amount specified in the fiscal note. Representative Smith replied the money was for the computer. The $14,700 impact of the fiscal note is for notifications, coordination, administration. The reimbursement of travel costs would be for claimants so there would be a standard set to apply to the private carrier, the state fund, or self insurers. The fiscal note is strictly a State Fund operating cost for notification issue. Senator Aklestad stated the department will establish one travel standard figure. Yes, the standard would be the amount given to state employees for travel reimbursement. $24 per day for room, and $14.50 for meals, and $.21 for milage.

Closing by Sponsor:

Representative Clyde Smith expressed concern over Mr. Anderson's plight, noting HB 347 does not effect the situation in any way. Representative Smith urged passage of HB 347.

HEARING ON HOUSE BILL 348

Presentation and Opening Statement by Sponsor:

Representative Marks, House District 75, stated HB 348 is a housekeeping bill that develops a new method of selecting a list of positions to serve on the occupation and disease panel, and provides the retroactive payment. HB 348 is an act to generally revise the laws relating to occupational disease to clarify the medical panel examination and hearing processes; and amending sections 39-72-601, 39-72-612, and 39-72-706, MCA; and providing an effective date and some retroactive application.

List of Testifying Proponents and What Group they Represent:

William R. Palmer, Interim Administrator, representing the Division of the Workers' Compensation.

George Wood, Executive Secretary, representing the Montana Self Insurer Association.

Michael Sherwood, representing the Montana Trial Lawyers Association.

James Tutwiler, representing the Montana Chamber of Commerce.

Testimony:

William R. Palmer, Interim Administrator, Division of Workers' Compensation, stated HB 348 brings the existing law into line with the expansion of the 1987 Occupational Disease definition. Since conditions such as carpal tunnel were moved to the Occupational Disease Act, additional specialties, such as neurology and orthopedics, are now required for panels. The method os selecting panels currently in the law has not been used for some time, and the proposed method is more in line with current practice. The Workers' Compensation Division use the Board of Medical Examiners to help u select physicians for impairment ratings. The same procedure would apply to Occupational Disease Panel. Also, the panels are not single groups of physicians. but change depending on the specific disease or case in question. The Section 39-72-602, MCA, amendment allows a different chairman to be selected for each case.

Michael Sherwood, Montana Trial Lawyers, Association, stated the Association had some concerns about the prorating of medical benefits, and other occupational benefits. The amendments were recommended, then amended, in the House. The Association now recommends HB 348 TO BE CONCURRED IN.

James Tutwiler, Montana Chamber of Commerce, stated the Commerce has reviewed HB 348 and fell it will provide for a better administration process. Tutwiler urged passage of HB 348.

List of Testifying Opponents and What Group They Represent:

John Anderson, representing himself.

Testimony:

John Anderson stated when you become impaired and have no way of retraining and are eligible for social security, it

doesn't do any good because it is a sabbatical from General Assistance.

Questions From Committee Members:

Senator Nathe asked Bill Palmer what is gained by subtracting the social security. Palmer stated that HB 348 does not address this issue. The topic is offset. In approximately 1973, federal law stated if a state does not take an offset, then the federal law will take 100%. Montana law changed in 1974, allowing the state to take a 50% offset. If the state didn't take a 50% off set against social security benefits, the social security administration would take a 100% off set against workers' compensation benefits. The injured worker comes out a little ahead.

Closing by Sponsor:

Senator Marks stated HB 348 clarifies current law and urged support of HB 348.

HEARING ON HOUSE BILL 391

Presentation and Opening Statement by Sponsor:

Representative Jerry Driscoll, House District 92, chief sponsor stated HB 391 is an act to extend collection of penalties and interest on overdue employer contributions to the State Unemployment Insurance Fund for use by the Department of Labor and Industry to administer the Unemployment Insurance Law and for programs to train and retrain unemployed and under-employed persons; amending section 3, Chapter 13, Special Laws of June 1986; and providing an immediate effective date. Representative Driscoll stated HB 391 allows the money in the penalty and interest account in the Unemployment Insurance Fund to continue to be used for the dislocated workers money to match the $1 million federal money. In the 1986 special session, the state was short of General Fund money and designated this money to relieve the shortage. Prior to 1983, the money was used for job service offices and buildings. The Department of Labor bought a corner lot in Bozeman. An uproar pursued, until Representative Norm Wallin of Bozeman stopped the procedure because Representative Wallin thought the state overpaid for the property. Since, the money has been used to offset other General Fund money. This is the money that has been used to match the Dislocated Workers' federal money. The bill will continue this procedure until other future legislation will stop it.

List of Testifying Proponents and What Group they Represent:

Recommendation and Vote:

Senator Keating made a motion to consider HB 243 BE CONCURRED IN AS AMENDED, with a Statement of Intent. The motion passed unanimously. Senator Keating will carry the bill.

Senator Blaylock will carry HB 391.
Senator Nathe will carry HB 348.
Senator Manning will carry HB 154.

DISPOSITION OF HOUSE BILL 348

Recommendation and Vote:

Senator Nathe moved that HB 348 BE CONCURRED IN, with no amendments. The motion passed.

DISPOSITION OF HOUSE BILL 347

Discussion:

Senator Aklestad said HB 347 is bound to increase the cost of some insurers, if the insurers are not up to the established rate. Senator Aklestad asked if the increase topic has been discussed. Jim Murphy stated the travel expenses deals with a $70,000 claim. It is easier to have a standard rate set.

Recommendation and vote:

Senator Blaylock made a motion BE CONCURRED IN. The motion passed unanimously. Senator Manning will carry the bill.

ADJOURNMENT

Adjournment At: The meeting was adjourned at 2:39 P.M.

Senator Gary C. Aklestad, Chairman

GCA/mfe

Minutes.302

SENATE STANDING COMMITTEE REPORT

March 4, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration HB 348 (third reading copy -- blue), respectfully report that HB 348 be concurred in.

Sponsor: Marks (Nathe)

BE CONCURRED IN

Signed: _____

Gary C. Aklestad, Chairman

LABOR COMMITTEE

VISITORS' REGISTER

51st LEGISLATIVE SESSION

DATE: March 2, 1989

LEAVE PREPARED STATEMENTS WITH SECRETARY! PLEASE!!!

PRINT: NAME	REPRESENTING Name + Address	Check One: Support	Check One: Oppo
John B. Anderson	SE 980 SKALKAHO RD-HAMILTON		X HB "
Rusty Harper	Dept. of Labor + Industry	HB 391	
Bill Palmer	Workers' Comp	HB 347 HB 348	
George Wood	Mt. Self Insurers	HB 347 HB 348	
Jim Van Cradle	City of Billings	HB 347	
Kay Foster	Billings Chamber	HB 347	
Peg Williams	SRS	HB 243	
Marie Bullock	"	"	
Bob Heiser	UFCW	[redacted]	[redacted]
Jon Murphy	Div. of Workers Comp	347 348	
Bud Clinch	Montana Logging Assoc.	347	
Keith Olson	" " "	347	
Mike Sherwood	MTLA	347 + 348	
Brad Marks		348	
Mick Smith		347	
Sue Mohn	MT Labor + Ind.	HB 391 X	